

**73-29-205 Injunctive relief.**

- (1) The owner of private property may obtain injunctive relief against a person who, without permission, enters, remains, or persists in an effort to enter or remain on the owner's property for recreational use of public water other than use in accordance with Sections 73-29-202 and 73-29-203, when effective.
- (2) An injunction under this section is in addition to any remedy for trespass.
- (3) The existence of an easement under Section 73-29-203 is a defense in an action for injunctive relief under this section or a claim of trespass under other law.
- (4) If a person against whom an injunction is sought, or a person charged with trespass, establishes by clear and convincing evidence the existence of an easement for defense purposes, as described in Subsection (3), the establishment of the existence of the easement applies only to the defense and does not constitute a judicial declaration of the easement's existence for another purpose.
- (5) If an owner obtains an injunction against a person under this section, the injunction does not serve as a declaration that there is no public easement on the owner's property.
- (6) The court may award attorney fees and costs in an action under this section if the court finds that the losing party's arguments lack a reasonable basis in law or fact.

Enacted by Chapter 410, 2010 General Session